IN THE HIGH COURT OF UTTARAKHAND ATNAINITAL

Writ Petition No. 433 of 2007 (M/S)

Shri Radhey Shyam Mandir Samiti, Park Road, Nai Basti, Laxman Chowk, Dehradun (Uttaranchal) through its Sachiv Sri Vijay Pal Singh Rawat, Advocate, S/O Sri B.S.Rawat, R/O Park Road, Laxman Chowk, Dehradun.

.....… Petitioner.

Versus

1. State of Uttaranchal (now Uttarakhand) through Collector Dehradun and Executive Engineer, P.W.D. Dehradun and 10 others.

…..Respondents.

Sri Siddhartha Sah, learned counsel for the petitioner.
Sri Gopal Narain Srivastava, Brief Holder for the State-respondents.

Dated May 15, 2007.

Hon'ble B.S.Verma, J.

The only prayer made by the petitioner is the present writ petition is that the I Additional Civil Judge (Senior Division), Dehradun be directed to expedite the hearing/disposal of the Original Suit No. 437/2004 Sri Radhey Shayam Mandir Vs. Uttaranchal Rajya and others and also all the miscellaneous cases arising out of the same.

The petitioner-plaintiff filed a Civil Suit for a decree of permanent injunction against the defendants-respondent nos. 1 to 10 in the Court of Civil Judge (Senior Division) Dehradun, which was registered as Original Suit No. 437 of 2004, Radhey Shyam Mandir Samiti Vs. State and others. The defendant nos. 3 to 10 filed their joint written statement in the suit, which is annexed as Annexure No.2 to the writ petition. Other defendants also filed their written statements. The temporary injunction application moved by the plaintiff-petitioner was rejected by the trial court. An appeal under Order 43, Rule 1(r) of the C.P.C. was preferred by the plaintiff before the District Judge, which was registered as Misc. Civil Appeal No. 143 of 2004. The appeal was decided by the

District Judge Dehradun vide order dated 10-1-2004 and status quo order was passed during the pendency of the suit.

Thereafter, the Nagar Nigam Dehradun also sought permission from the District Judge Dehradun to construct a tank by filing Misc. Case No. 435 of 2005, vide order dated 4-7-2005. But in that process, the defendant no.2 and its contractor is said to have demolished a part of Samadhi on 4-7-2006 which gave rise to a miscellaneous case under Section 10 read with Section 15(2) of the Contempt of Court Act, for referring it to the High Court and the same was registered as R.M.No. 09 of 2007 (O.S. NO. 437 of 2004) Radhey Shyam Mandir Vs. Rajya.

In the course of arguments, learned counsel for the petitioner submitted that the ends of justice would be subserved if the trial court i.e. I Additional Civil Judge (Senior Division) Dehradun is directed to decide the Civil Suit No. 437 of 2004 and all other miscellaneous cases arising out the said civil suit expeditiously.

In the facts and circumstances of the case, without going into the merit, the I Additional Civil Judge (Senior Division) Dehradun is directed to decide the Original Suit No. 437 of 2004 Shri Radhey Shyam Mandir Vs. Uttaranchal Rajya and others as also other connected matters including Misc. Case No. R.M. No. 09 of 2007, pending between the parties, expeditiously, as early as possible.

With the above direction, the writ petition is disposed of finally.

All applications stand disposed of.

(B.S.Verma, J.)

RCP